

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

MARVIN W. KING

BKY Case No. 04-60967 DDO

Chapter 13

Debtor(s).

**NOTICE OF HEARING AND
MOTION FOR DISMISSAL**

Michael J. Farrell, Chapter 13 Trustee, hereby moves to dismiss the above-entitled Chapter 13 case.

1. The Court will hold a hearing on this motion at 10:00 a.m. on December 14, 2004 in Courtroom 2 – 2nd Floor, 118 South Mill Street, Fergus Falls, Minnesota, 56537.
2. Any response to this motion must be filed and delivered not later than 10:00 a.m. on December 9, 2004, which is three days before the time set for the hearing (excluding Saturdays, Sundays, and holidays), or filed and served by mail not later than December 3, 2004, which is seven days before the time set for the hearing (excluding Saturdays, Sundays, and holidays). **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**
3. The Debtor commenced this case by filing a voluntary Chapter 13 petition on August 16, 2004. This case is pending before this Court.
4. The Court has jurisdiction pursuant to 28 U.S.C. § § 157 and 1334. This motion is brought pursuant to 11 U.S.C. §1307, Bankruptcy Rule 1017 and Local Rule 1017.
5. The Debtor has failed to make payments to the Trustee as outlined in the proposed Plan. To date, the Debtor has made no payment to the Trustee. The Debtor is currently one month in default totaling \$288.27. This amount does not include any payments that may come due between now and the time of the hearing
6. The Debtor filed bankruptcy on August 16, 2004. The 341 meeting was scheduled for October 7, 2004. The Debtor failed to appear at the appointed time and place. To date, no 341 investigation has been held.

WHEREFORE, the Trustee requests an order as follows:

(A) Dismissing the above entitled Chapter 13 case; and

(B) Granting any other relief the Court deems just and proper.

Dated: October 8, 2004

/s/ Michael J. Farrell

Michael J. Farrell, Standing Trustee

PO Box 519

Barnesville, MN 56514

(218) 354-7356

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re:

MARVIN W. KING

BKY Case No. 04-60967 DDO
Chapter 13

Debtor(s).

The undersigned, being an employee of the standing Chapter 13 Trustee, declares that on the date indicated below, I served the following:

Notice of Hearing and Trustee's Motion to Dismiss
and Unsworn Declaration of Proof of Service

Upon each of the entities named below, by mail (unless otherwise indicated below) by mailing to each of them a copy thereof by enclosing same in an envelope with first class mail postage prepaid, and depositing same in the post office at Barnesville, Minnesota, addressed to each of them as follows:

Debtor(s):

Marvin W. King
9141 Bayview Rd. NW
Garfield, MN 56332

Debtor's Attorney:

Logan Moore
Velde Law Firm
1118 Broadway
Alexandria, MN 56308

Additional Copy(s) addressed to:

United States Trustee
1015 U.S. Courthouse
300 W. 4th St.
Minneapolis, MN 55415

And I declare, under penalty of perjury, that the foregoing is true and correct.

Dated: October 8, 2004

/s/ Belinda D. Kurtz
Belinda D. Kurtz
Chapter 13 Office

UNITED STATES BANKRUPTCY COURT
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In Re:

MARVIN W. KING

BKY Case No. 04-60967 DDO
Chapter 13

Debtor(s).

This matter came before the Court on December 14, 2004 at 10:00 a.m., or as soon thereafter as could be heard, on a motion by the Chapter 13 Trustee to dismiss this case. The appearances are as noted on the record. The court made its findings and conclusion on the record. Based on the Local and Federal Rules of Bankruptcy Procedure, it is

HEREBY ORDERED:

That this Chapter 13 Case is dismissed.

Dated: _____

Judge Dennis D. O'Brien
U.S. Bankruptcy Judge